

PROVIDING FOR THE CONSIDERATION OF H.R. 2754: THE
SHIPBUILDING TRADE AGREEMENT ACT

JUNE 6, 1996.—Referred to the House Calendar and ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 448]

The Committee on Rules, having had under consideration House Resolution 448, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2754, the “Shipbuilding Trade Agreement Act” under a modified closed rule. The rule provides one hour of general debate divided equally among the chairman and ranking minority members of the Committees on Ways and Means and National Security.

The resolution waives all points of order against consideration of the bill.

The resolution makes in order the amendment in the nature of a substitute as recommended by the Committee on Ways and Means, as modified by the amendment printed in part 1 of this report, as an original bill for purpose of amendment which shall be considered as read.

The resolution waives all points of order against the amendment in the nature of a substitute, as modified.

The resolution further provides for consideration of an amendment printed in part 2 of this report and waives all points of order against the amendment. The amendment may be offered only by a Member designed in the report, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Finally, the rule provides for one motion to recommit, with or without instructions.

BRIEF SUMMARIES OF PART 1 AND PART 2 AMENDMENTS

The part 1 amendment, which is considered as adopted with the adoption of the rule, would authorize the president to give notice of intention to withdraw from the OECD Agreement under Article 14 of that agreement if another signatory country gives notice of intention to withdraw. This provision would only apply if an OECD Agreement party or parties has delivered 15 percent or more of the gross tonnage of vessels constructed and delivered in the previous year. If the United States withdraws from the agreement, this section would reinstate the provisions of section 204 as if they had never been repealed. The amendment would also add a new definitions section 206 that would define terms associated with the OECD Agreement.

The part 2 amendment, which may be offered by Representative Batemen of Virginia or his designee, would amend the base text amendment in the nature of a substitute by redesignating the existing section 206 as section 209, and inserting new sections 206–208.

A new section 206 would be added to delay the effective date of the amendments contained in section 204(7) as they relate to the Title XI program. Section 205 would allow the Secretary of Transportation to continue to issue loan guarantee commitments under the current favorable terms until January 1, 1999. Vessels to which commitments are issued on or before January 1, 1999 would be required to be delivered on or before January 1, 2002. This is essentially a three year delay from the terms as set forth in the agreement. After the January 1, 1999 date, loan commitments made would have to be made using the less favorable OECD guidelines.

A section 207 would clarify provisions in the OECD Agreement concerning the treatment of the US build requirement. This section would clarify, consistent with representations made by the United States Trade Representative, that nothing in this agreement affects the Jones Act or other cabotage laws.

A new 208 would clarify that nothing in the Agreement should be construed as preventing the United States from taking any action which it considers necessary for the protection of its essential security interests. This section would allow the United States to invoke its sovereign authority to define, for the purposes of exclusion from the Agreement the terms “military vessel”, military reserve vessel”, or essential security interests” on a case by case basis, as determined by the Secretary of Defense.

A new section 809 of the Tariff Act of 1930 would be added to provide a remedy for a U.S. shipbuilder who loses out on a sale where the vessel is not sold to a U.S. party. As currently drafted, the antidumping provisions only apply to vessels sold to U.S. parties. Under section 808, only a government (and not private shipbuilding companies) may complain to another government concerning cases in which a vessel built in another country is sold below cost to a third party. Section 809 would essentially modify section 808 to permit a U.S. shipbuilder to petition the United States Trade Representative in circumstances in which a vessel is sold

below cost in another country. This section would further require the United States Trade Representative, upon receipt of such a petition from a shipbuilder, to request the administering authority to determine whether there was reasonable cause to believe that the subject vessel had been sold at less than fair value and whether the United States shipbuilding industry had been materially injured by the sale.

Section 861 of the Tariff Act of 1930 would be amended to add a definition for “military reserve vessel” to clarify that vessels procured and owned by private parties for sealift, such as those used by the Marine Corps as prepositioned vessels are excluded from the application of this Act or OECD agreement. This amendment would further clarify that vessels outfitted with national defense features as required by the Secretary of Defense are likewise excluded.

Section 802(I) of the Tariff Act of 1930 is amended to grant U.S. shipyards standing to file a petition to initiate an injurious pricing proceeding even if the U.S. shipbuilder was not invited to tender a bid. The Committee does not believe that an invitation to file a bid to build a ship should be a precondition for having standing to initiate an injurious pricing investigation.

PART 1

The amendment considered as adopted is as follows:

Add the following at the end of title II of the bill:

SEC. 205. WITHDRAWAL FROM THE AGREEMENT.

(a) WITHDRAWAL.—

(1) NOTICE.—The President shall give notice, under Article 14 of the Shipbuilding Agreement, of intent of the United States to withdraw from the Shipbuilding Agreement, as soon as is practicable after one or more Shipbuilding Agreement Parties give notice, under such article, of intent to withdraw from the Shipbuilding Agreement, if paragraph (2) applies.

(2) TONNAGE OF NEW CONSTRUCTION IN WITHDRAWING PARTIES.—This paragraph applies if the combined gross tonnage of new Shipbuilding Agreement vessels constructed in all Shipbuilding Agreement Parties who have given notice to withdraw from the Shipbuilding Agreement, which were delivered in the calendar year preceding the calendar year in which the notice is given, is 15 percent or more of the gross tonnage of new Shipbuilding Agreement vessels that were constructed in all Shipbuilding Agreement Parties and were delivered in the calendar year preceding the calendar year in which the notice is given.

(3) TERMINATION OF WITHDRAWAL.—If a Shipbuilding Agreement Party described in paragraph (2) takes action to terminate its withdrawal from the Shipbuilding Agreement, so that paragraph (2) would not apply if that Party had not given the notice to withdraw, the President may take the necessary steps to terminate the notice of withdrawal of the United States from the Shipbuilding Agreement.

(b) REINSTATEMENT OF LAWS.—If the United States withdraws from the Shipbuilding Agreement, on the date on which such withdrawal becomes effective, the amendments made by section 204

shall be deemed not to have been made, and the provisions of law amended by section 204 shall, on and after such date, be effective as if this Act had not been enacted.

SEC. 206. DEFINITIONS.

As used in this title—

(1) the terms “Shipbuilding Agreement”, “Shipbuilding Agreement Party”, and “Shipbuilding Agreement vessel” have the meanings given those terms in subsections (h), (i), and (j), respectively, of section 905 of the Merchant Marine Act, 1936, as added by section 204(7) of this Act; and

(2) the terms “GATT 1994” and “Uruguay Round Agreements” have the meanings given those terms in section 2 of the Uruguay Round Agreements Act.

PART 2

An amendment to be offered by Representative Bateman of Virginia, or his designee, debatable for one hour.

In section 3 (page 2, line 15), strike “This” and insert “Except as provided in section 206, this”.

Redesignate section 206 as section 209, and insert the following after section 205:

SEC. 206. APPLICABILITY OF TITLE XI AMENDMENTS.

(a) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Notwithstanding any provision of the Shipbuilding Agreement or the Export Credit Understanding, the amendments made by paragraph (8) of section 204 shall not apply with respect to any commitment to guarantee made under title XI of the Merchant Marine Act, 1936, before January 1, 1999, with respect to a vessel delivered—

(A) before January 1, 2002, or

(B) in the case of unusual circumstances to which paragraph (2) applies, as soon after January 1, 2002, as is practicable.

(2) **UNUSUAL CIRCUMSTANCES.**—This paragraph applies in a case in which unusual circumstances beyond the control of the parties concerned prevent the delivery of a vessel by January 1, 2002. As used in this paragraph, the term “unusual circumstances” means acts of God (other than ordinary storms or inclement weather conditions), labor strikes, acts of sabotage, explosions, fires, or vandalism, and similar circumstances.

SEC. 207. OTHER LAWS NOT AFFECTED.

The Shipbuilding Agreement shall not affect, directly or indirectly, the Merchant Marine Act, 1920, the Act of June 19, 1886 (46 U.S.C. App. 289), or any other provision of law set forth in Accompanying Note 2 to Annex II to the Shipbuilding Agreement, and shall not provide any mechanism to subject any producer of vessels in the United States to financial penalties, duties, bid restrictions, unfavorable bid preferences, or withdrawal of concessions under the GATT 1994 or other Uruguay Round Agreements, in the competition for international commercial vessel construction or reconstruction orders because of construction of vessels by United States

shipbuilders for operation in the coastwise trade of the United States.

SEC. 208. PROTECTION OF UNITED STATES INTERESTS.

Nothing in the Shipbuilding Agreement shall be construed to prevent the United States from taking any action which it considers necessary for the protection of essential security interests or from invoking its sovereign authority to define, for purposes of exclusion from coverage under the Shipbuilding Agreement and from any dispute or challenge based on Annex I to the Shipbuilding Agreement, “military vessel”, “military reserve vessel”, or “essential security interest” on a case by case basis, as determined by the Secretary of Defense.

In paragraph (1) of section 209 (as redesignated by this amendment), strike “and ‘Shipbuilding Agreement vessel’ have the meanings given those terms in subsections (h), (i), and (j)” and insert “‘Shipbuilding Agreement vessel’, and ‘Export Credit Understanding’ have the meanings given those terms in subsections (h), (i), (j), and (k)”

Page 6, strike line 19 and all that follows through page 7, line 2.

Page 7, line 3, insert “(I) if” before “the petitioner”.

Page 7, strike lines 9 through 11 and insert the following:

“(II) if the petitioner was not invited to tender a bid, the petition”.

Page 7, line 19, strike “(i)(III)” and insert “(i)(II)”.

Page 9, line 10, strike “(i) or (ii)” and insert “(i)(I)”.

Page 9, line 18, strike “(1)(B)(iii)” and insert “(1)(B)(i)(II)”.

Page 49, add the following after line 24:

“SEC. 809. THIRD COUNTRY SALES.

“(a) FILING OF PETITION.—Any interested party that would be eligible to file a petition under section 802(b)(1) with respect to a sale if such sale had been to a United States buyer may, with respect to a sale of a vessel by a foreign producer in a Shipbuilding Agreement Party to a buyer in a third country that is a Shipbuilding Agreement Party, file with the Trade Representative a petition alleging that—

“(1) such vessel has been sold at less than fair value; and

“(2) the industry in the United States producing or capable of producing a like vessel is materially injured by reason of such sale.

“(b) DETERMINATION.—Upon receipt of a petition under subsection (a), the Trade Representative shall request the following determinations to be made in accordance with substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

“(1) The administering authority shall determine whether there is reasonable cause to believe that the subject vessel has been sold at less than fair value.

“(2) The Commission shall determine whether there is reasonable cause to believe that the industry in the United States is materially injured by reason of such sale.

“(c) COMPLAINT BY TRADE REPRESENTATIVE.—If the administering authority makes an affirmative determination under paragraph

(1) of subsection (b), and the Commission makes an affirmative determination under paragraph (2) of subsection (b), the Trade Representative shall make application to the country of the buyer of the subject vessel for an injurious pricing action and relief similar to that available under section 808. The Trade Representative shall advise the petitioner of the proceedings undertaken by the third country in response to such application and shall permit the petitioner to participate in such proceedings to the greatest extent practicable.”

Page 102, line 9, strike “or 808” and insert “, 808, or 809”.

In the table of contents for chapter 8 of title VII of the Tariff Act of 1930 (page 3, after line 9), insert the following after the item relating to section 808:

“Sec. 809. Third country sales.”

Page 100, line 20, strike “and”; on line 21, strike “(iii)” and insert “(iv)”, and insert the following after line 20:

“(iii) a military reserve vessel, and”.

Page 101, insert the following after line 15:

“(E) MILITARY RESERVE VESSEL.—A ‘military reserve vessel’ is a vessel that has been constructed with national defense features and characteristics required by the Secretary of Defense for the purpose of supporting the United States Armed Forces in a contingency.